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Attorneys for Plaintiff JOSEPH BRELSFORD, on behalf of himself and all others  
similarly situated

**UNITED STATE DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

JOSEPH BRELSFORD, on behalf of  
himself and all others similarly situated,

Plaintiff,

vs.

YOURMECHANIC, INC., a California  
corporation, doing business as YOUR  
MECHANIC, and DOES 1-10,

Defendants.

Case No.

**CLASS ACTION COMPLAINT  
FOR:**

1. Failure to Pay Minimum Wage
2. Collective Action - Violation of the Fair Labor Standards Act ("FLSA," 29 U.S.C. 201, et seq.)
3. Failure to Provide Meal Periods
4. Failure to Provide Paid Rest Breaks
5. Failure to Reimburse
6. Failure to Pay All Wages at Termination (Labor Code Section 201-203)
7. Failure to Provide Accurate Wage Statements
8. Unfair Business Practices (Business & Practices Section 17200)
9. Violation of Labor Code Section 2699 (PAGA)

**DEMAND FOR JURY TRIAL**

Plaintiff JOSEPH BRELSFORD ("Plaintiff") alleges, on behalf of himself and on behalf of all others similarly situated, causes of action against Defendants, each of them, as follows:

## I.

## INTRODUCTION

1. This is an action brought on behalf of current and former employees for YOURMECHANIC, INC. (hereinafter "Defendant" or "Your Mechanic").

2. Defendant primary business activity is providing mobile automobile repair and maintenance services to automobile owners at their home.

3. Plaintiff JOSEPH BRELSFORD (hereinafter “Plaintiff”) is a former “journeyman” automotive technician or mechanic for “Your Mechanic” in California.

4. Your Mechanic misclassified and continues to misclassify its mechanics as independent contractors, when under California law, these mechanics must be classified as non-exempt, hourly employees.

5. Your Mechanic’s misclassification of its mechanics as independent contractors is a violation of the California Labor Code as well as California Industrial Welfare Commission (“IWC”) Wage Order No. 9-2001, as amended (“Wage Order No. 9”) which include:

- a. Failing to pay its employees premium wages for missed meal periods;
- b. Failing to pay its employees premium wages for missed rest periods;
- c. Failing to pay its employees minimum wage as required by California law for every hour worked;
- d. Failing to maintain accurate employment records for its employees in California; and
- e. Failing to pay its employees amounts owed at the end of employment.

6. Plaintiff, on behalf of himself and the proposed class and subclasses, seeks unpaid wages and penalties for Labor Code violations.

## II.

### **JURISDICTION**

7. The Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 206(a)(1).

8. Federal jurisdiction is proper due to Defendant's violations of the minimum wage provision of the U.S. Fair Labor Standards Act. 29 U.S.C. § 206(a)(1). As described herein, Plaintiff alleges Defendant failed to pay any wages for non-clocked work.

9. Plaintiff alleges that Defendant systematically violates the Fair Labor Standards Act by failing to provide Plaintiff and other class members minimum wage for all hours worked.

10. Venue lies within the Northern California District because Defendant is headquartered in the Northern District in Mountain View, California. Defendant also operates throughout the Northern District of California.

### III.

## PARTIES

**Plaintiff**

11. Plaintiff is a resident of Sacramento County, California. At all relevant times herein, Plaintiff was employed by Defendants as a non-exempt automotive technician.

## Defendants

12. Plaintiff alleges on information and belief that Defendant YOURMECHANIC, INC., owns and operates Your Mechanic, and does business as “Your Mechanic” throughout California.

13. Defendant is headquartered in the Northern District of California and operates throughout the Northern District of California.

1           14. Plaintiff alleges on information and belief that Defendant issues  
2 uniform policies and procedures for all automotive technicians working for  
3 Your Mechanic.  
4

5           15. The true names and capacities, whether individual, corporate,  
6 associate, or otherwise, of Defendants sued here in as DOES 1 through 10,  
7 inclusive, are currently unknown to Plaintiff, who therefore sues Defendants by  
8 such fictitious names. Plaintiff is informed and believes, and based thereon  
9 alleges, that Defendants designated herein as DOE(S) are legally responsible in  
10 some manner for the unlawful acts referred to herein.  
11  
12

13           16. Plaintiff will seek leave of court to amend this complaint to reflect  
14 the true names and capacities of the Defendants designated hereinafter as DOE(S)  
15 when such identities become known.  
16

17           17. Plaintiff is informed and believes and thereon alleges that at all  
18 relevant times each Defendant, directly or indirectly, or through agents or other  
19 persons, employed Plaintiff and the other class members, and exercised control  
20 over the wages, hours, and working conditions of Plaintiff and the other class  
21 members.  
22  
23

24           18. Plaintiff is informed and believes and thereon alleges that, at all  
25 relevant times, each Defendant was the principal, agent, partner, joint venturer,  
26 officer, director, controlling shareholder, subsidiary, affiliate, parent corporation,  
27  
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1 successor in interest and/or predecessor in interest of some or all of the other  
2 Defendants, and was engaged with some or all of the other Defendants in a joint  
3 enterprise for profit, and bore such other relationships to some or all of the other  
4 Defendants so as to be liable for their conduct with respect to the matters alleged  
5 below.  
6

7  
8 19. Plaintiff is informed and believes and thereon alleges that each  
9 Defendant acted pursuant to and within the scope of the relationships alleged  
10 above, that each Defendant knew or should have known about, authorized,  
11 ratified, adopted, approved, controlled, aided and abetted the conduct of all other  
12 Defendants.  
13

#### 14 IV.

#### 15 GENERAL ALLEGATIONS

16  
17 20. Plaintiff worked as a “journeyman” automotive technician for  
18 Defendant from approximately February 2019 to September 2019 in Sacramento,  
19 California.  
20

21 21. Plaintiff alleges that Defendants’ corporate policies, procedures, and  
22 uniform understaffing, were either written or institutionalized into each  
23 Defendant’s labor practices, such that Plaintiff and the class he seeks to represent  
24 were not able to, or permitted to, take timely rest breaks or lunch periods,  
25  
26  
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1 pursuant to the Labor Code, Industrial Welfare Commission Wage Order 5-2001,  
2 and other applicable Wage Orders.

3  
4 22. In an effort to avoid providing its mechanics with the benefits and  
5 protections afforded to employees in California, Your Mechanic willfully and  
6 uniformly misclassified its mechanics as independent contractors.

7  
8 23. Plaintiff alleges Defendant implemented and maintained a company-  
9 wide policy to pay non-exempt employees less than the applicable minimum  
10 wage, including failing to pay including automotive technicians for all hours  
11 worked. Defendant were aware of the fact that under their system, Plaintiff  
12 regularly worked unpaid hours and/or worked for compensation at less than the  
13 applicable minimum wage (double regular minimum wage when providing own  
14 tools per California IWC Wage Order 4-2001).

15  
16  
17 24. Plaintiff alleges Defendant also failed to provide overtime wages  
18 earned for all hours worked by Plaintiff in excess of eight hours per day and/or  
19 forty hours per week. Where overtime compensation was received at all, it was  
20 for fewer than all overtime hours worked and was paid at less than the amount  
21 required by California law.

22  
23  
24 25. Plaintiff alleges that in order to meet Defendant's workload  
25 requirement, he typically worked through both meal periods and rest breaks.  
26  
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1           26. Plaintiff alleges Defendant also failed to provide Plaintiff with all the  
2 required meal periods when they worked more than five hours in a day; and  
3  
4 Defendant failed to pay Plaintiff a one-hour premium wage in lieu thereof.

5           27. Plaintiff alleges Defendant failed to provide Plaintiff with timely and  
6 accurate wage and hour statements.  
7

8           28. Plaintiff alleges Defendant did not maintain adequate records  
9 pertaining to when Plaintiff began and finished each work period; meal/rest  
10 breaks; hours worked per day; hours worked per pay period; and applicable rates  
11 of pay for all regular hours and overtime.  
12

13           29. Plaintiff alleges that Defendants have maintained and continue to  
14 maintain uniform practices and procedures which are in inconsistent with state  
15 and federal law.  
16

17           30. Plaintiff alleges that Defendants engage in uniform policies and  
18 conduct, as alleged herein resulting in violations of Labor Code §§ 201, 202, 203,  
19 204, 226, 226.7, 510, 1194, and 2750.5.  
20

21           31. Plaintiff brings this action pursuant to Business and Professions  
22 Code §§ 17200-17208, seeking injunctive relief and restitution of all benefits  
23 obtained by Defendants by engaging in the unlawful conduct complained herein.  
24  
25

26           32. Based on Defendants' misclassification of Plaintiff and other Your  
27 Mechanic mechanics as independent contractors, Plaintiff seeks to represent a  
28



1 class of Your Mechanic mechanics for reimbursements of business expenses.  
2 Your Mechanic mechanics are required to bear many of the expenses of their  
3 employment, including expenses for their tools, vehicles, gas, insurance, and  
4 other expenses.  
5

6 33. California law requires employers to reimburse employees for such  
7 expenses, as they are for the benefit of the employer and are necessary for the  
8 employees to perform their jobs. Your Mechanic failed and continues to fail to  
9 reimburse its mechanics for such expenses.  
10  
11

12 34. In addition, based on their misclassification as independent  
13 contractors, Your Mechanic mechanics do not/did not receive meal breaks, or rest  
14 breaks as required by the California Labor Code and Wage Order No. 9.  
15

16 35. Further, based on their misclassification as independent contractors,  
17 Your Mechanic mechanics did not receive accurate wage statements.  
18

19 36. Plaintiff is a former Your Mechanic mechanics who was  
20 misclassified by Your Mechanic as an independent contractor. Plaintiff's primary  
21 duties were non-exempt and he had little, if any, discretion in his automotive  
22 repair work for Your Mechanic.  
23

24 37. On April 27, 2020, Plaintiff sent a notice of Private Attorney General  
25 Act ("PAGA") claims to Defendants and the California Labor and Workforce  
26 Development Agency (LWDA).  
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V.

**CLASS ALLEGATIONS**

38. Plaintiff brings this cause of action on behalf of himself and on behalf of all persons similarly situated, (“the class”) as alleged herein. This action is brought and may properly be maintained as a class action pursuant to the provisions of California Code of Civil Procedure section 382, Federal Rule 23, and other applicable law pertaining to class actions.

39. The proposed class Plaintiff seeks to represent is presently defined as follows:

Proposed Class:

All of Defendants’ employees who work or have worked for Defendants performing automotive repairs maintenance work in California within the four years prior to the date of the filing of this Complaint through the date of the final disposition of this action.

40. The proposed subclasses Plaintiff seeks to represent are presently defined as follows:

Meal Period Subclass:

All persons who have worked for Defendant during the Liability Period who are owed unpaid wages for missed meal periods.

Rest Break Subclass:

All persons who have worked for Defendant during the Liability Period who are owed unpaid wages for missed rest breaks.

41. Plaintiff is a member of the proposed class and all subclasses.

1           42.    There is a well-defined community of interest in the litigation and  
2 the class is ascertainable.

3  
4           A.    **Numerosity:** The class is so numerous that individual joinder of all  
5 members is impractical under the circumstances of this case. While the exact  
6 number of class members is unknown to Plaintiff at this time, Plaintiff is  
7 informed and believes and thereon alleges that the class consists of 100 persons or  
8 more.

9  
10           B.   **Common Questions Predominate:** Common questions of law and  
11 fact exist as to all class members, and predominate over any questions that affect  
12 only individual members of the class. The common questions of law and fact  
13 include, but are not limited to:

- 14  
15           i.    What were and are the policies, programs, practices, procedures and  
16 protocols of Defendants regarding class members' actual work and  
17 tasks, and their job duties irrespective of job titles;  
18  
19           ii.   Whether Defendants violated California law by their policies,  
20 programs, practices, procedures and protocols regarding rest periods  
21 for class members;  
22  
23           iii.   Whether Defendants violated California law by their policies,  
24 programs, practices, procedures and protocols regarding lunch  
25 breaks for class members;  
26  
27  
28

1           iv. What were and are the policies, programs, practices, procedures and  
2           protocols of Defendants regarding furnishing to the class members,  
3           upon each payment of wages, itemized statements required by Labor  
4           Code section 226;

5  
6           v. Whether Defendants violated California law by their policies,  
7           programs, practices, procedures and protocols regarding furnishing  
8           to the class members, upon each payment of wages, itemized  
9           statements required by Labor Code section 226;

10  
11  
12          vi. Whether Defendants violated Business & Professions Code sections  
13          17200 *et seq.* by their policies, programs, practices, procedures and  
14          conduct referred to in this cause of action;

15  
16          vii. Whether Defendants obtained voluntarily waivers with consent and  
17          full disclosure, and whether a written signed waiver is effective as to  
18          all future meal and rest periods;

19  
20          viii. The proper measure of damages sustained and the proper measure  
21          of restitution recoverable by members of the California class; and,

22  
23          ix. Additional common questions of law and fact may develop as the  
24          litigation progresses.

25  
26          C.    **Typicality**: Plaintiff's claims are typical of the claims of the class.

27   Plaintiff and other class members sustained losses, injuries and damages arising  
28

1 out of the Defendants' common policies, programs, practices, procedures, and  
2 course of conduct referred to in each cause of action and throughout this  
3  
4 Complaint, which were applied uniformly to class members as well as Plaintiff.  
5 Plaintiff seeks recoveries for the same types of losses, injuries, and damages as  
6 were suffered by the other class members as well as Plaintiff.  
7

8 D. **Adequacy**: Plaintiff and his counsel will fairly and adequately  
9 protect the interests of the class. Plaintiff has no interest that is adverse to the  
10 interests of the other class members.  
11

12 E. **Superiority**: A class action is superior to other available means for  
13 the fair and efficient adjudication of this controversy. Individual joinder of all  
14 class members is impractical. Class action treatment will permit a large number  
15 of similarly situated persons to prosecute their common claims in a single forum  
16 simultaneously, efficiently, and without the unnecessary duplication of effort and  
17 expense that numerous individual actions engender. Also, because the losses,  
18 injuries and damages suffered by each of the individual class members are small  
19 in the sense pertinent to class action analysis, the expenses and burden of  
20 individual litigation would make it extremely difficult or impossible for the  
21 individual class members to redress the wrongs done to them. On the other hand,  
22 important public interests will be served by addressing the matter as a class  
23 action. The cost to the court system and the public of adjudication of individual  
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1 litigation and claims would be substantial, and substantially more than if the  
2 claims are treated as class action. Individual litigation and claims would also  
3 present the potential for inconsistent or contradictory results.  
4

5 F. **Public Policy Considerations:** Defendants and other employers  
6 throughout the state violate wage and hour laws. Current employees are often  
7 afraid to assert their rights out of fear of direct or indirect retaliation. Former  
8 employees are often fearful of bringing claims because doing so can harm their  
9 employment and future employment and future efforts to secure employment.  
10 Class actions provide class members who are not named in the complaint a degree  
11 of anonymity that allows for vindication of their rights while eliminating these  
12 risks, or at least enormously reducing them.  
13  
14  
15

## 16 VI.

### 17 **CAUSES OF ACTION**

#### 18 **First Cause of Action**

#### 19 **Failure to Pay Minimum Wage** 20 **(Labor Code §§ 1182.12, 1194, 1197 and 1197.1, IWC Wage Orders, and** 21 **the Fair Labor Standards Act 29 U.S.C. 201, et seq.)** 22

23 43. Plaintiff incorporate all previous paragraphs of this Complaint as  
24 though fully set forth herein.  
25

26 44. At all relevant times, the Industrial Welfare Commission (IWC)  
27 Wage Orders contained in Title 8 of the Code of Regulations (“Wage Orders”)  
28

1 applied to Plaintiff and other class members in their capacity as employees of  
2 Defendants. The Wage Orders and California law provided, among other things,  
3 that employees must receive minimum wage earnings for all hours worked.  
4

5 45. During the liability period, Defendants have routinely failed to pay  
6 Plaintiff the minimum wage required under California law. Because Plaintiff was  
7 required to provide and maintain his own hand tools, that minimum wage was  
8 double the standard minimum wage per IWC Wage Order 4-2001.  
9

10 46. Plaintiff purchased and used his own hand tools to perform work for  
11 Defendants. The hand tools provided and used were necessary for the  
12 performance of their duties as an auto technician.  
13

14 47. Plaintiff timecards and pay stubs did not have list his actual regular  
15 and overtime hours worked.  
16

17 48. Plaintiff worked unpaid hours for Defendants as a part of systematic  
18 pattern of Defendants' failing to pay employees for all hours worked.  
19

20 49. Labor Code Section 1194 provides in pertinent part: "any employee  
21 receiving less than the legal minimum wage or the legal overtime compensation  
22 applicable to the employee is entitled to recover in a civil action the unpaid  
23 balance of the full amount of this minimum wage or overtime compensation,  
24 including interest thereon, reasonable attorney's fees, and costs of suit."  
25  
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1           50. Labor Code Section 1197 provides that the “minimum wage for  
2 employees fixed by the commission or by any applicable state or local law, is the  
3 minimum wage to be paid to employees, and the payment of a lower wage than  
4 the minimum so fixed is unlawful.”  
5

6           51. Defendants violated California Labor Code sections 1182.12, 1194,  
7 1197, 1197.1 and the applicable Wage Order, Wage Order No. 9, by willfully  
8 failing to pay all minimum wages due to Plaintiff and the class members.  
9

10           52. Plaintiff and the class members seek all actual, consequential and  
11 incidental losses and damages, including, unpaid minimum wages, interest  
12 thereon, attorneys’ fees, and costs.  
13

14           53. In addition to the above-amounts, Plaintiff and the class he seeks to  
15 represent will seek to recover one hundred dollars (\$100) for each underpaid  
16 employee for each pay period for which the employee is underpaid for any initial  
17 violation that is intentionally committed, and two hundred fifty dollars (\$250) for  
18 each subsequent violation for the same specific offense, for each underpaid  
19 employee for each pay period for which the employee is underpaid regardless of  
20 whether the initial violation is intentionally committed.  
21  
22  
23

24           ///

25           ///

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27  
28



## Violations of the Fair Labor Standards Act ("FLSA," 29 U.S.C. 201, *et seq.*)

55. Plaintiff is informed and believes, and thereon alleges, that Defendants have required collective class members, as part of their employment, to work without receiving the minimum wage for all hours worked, under 29 U.S.C. § 206(a). That section provides the following: “Every employer shall pay to each of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, wages at the [minimum wage].”

56. Plaintiff is informed and believes, and thereon alleges that Defendants have required, or require collective class members, as part of their employment, to work without compensation.

57. Plaintiff alleges that Defendant systematically violates the Fair Labor Standards Act by failing to provide Plaintiff and other class members with minimum wage for all hours worked.

58. Defendants' violations of the FLSA were willful and are ongoing.

1           59. Plaintiff proposes to undertake appropriate proceedings to have the  
2 collective class members aggrieved by Defendants' unlawful conduct notified of  
3 the pendency of this action and given the opportunity to join this action as  
4 Plaintiff, pursuant to 29 U.S.C. § 216(b), by filing written consents / joinders with  
5 the Court.  
6

7  
8           60. Attached hereto as Exhibit A is Plaintiff's Fair Labor Standard Act  
9 signed Consent to Join this collective action.  
10

11           61. As a result of Defendants' unlawful conduct, Plaintiff and the  
12 collective class members have suffered damages as set forth herein.  
13

14           62. As a result of the foregoing, Plaintiff seeks judgment against  
15 Defendants on his own behalf, and on behalf of those collective class members  
16 similarly situated who file written consents to join in this action, for all unpaid  
17 wages owed by Defendants to Plaintiff and the collective class members, pursuant  
18 to 29 U.S.C. §§ 206 and 207, together with an award of an additional equal  
19 amount as liquidated damages, and costs, interests, and reasonable attorneys'  
20 fees, pursuant to, *inter alia*, 29 U.S.C. § 216(b).  
21  
22

23                           **Third Cause of Action**

24                           **Failure to Provide Meal Periods**  
25                           **(Labor Code §§ 226.7 and 512)**

26           63. Plaintiff incorporates all previous paragraphs of this Complaint as  
27 though fully set forth herein.  
28

1           64. Throughout the period applicable to this cause of action, California  
2 law, as set forth in relevant part by the Industrial Welfare Commission Wage  
3 Order No. 9 at section (11), provided as follows:  
4

5           i. No employer shall employ any person for a work period of  
6 more than five (5) hours without a meal period of not less  
7 than 30 minutes

8           ...

9           ii. If an employer fails to provide an employee a meal period in  
10 accordance with the applicable provisions of this Order, the  
11 employer shall pay the employee one (1) hour of pay at the  
12 employee's regular rate of compensation for each work day  
13 that the meal period is not provided.

14           65. Labor Code Section 512 states that an "employer may not employ an  
15 employee for a work period of more than five hours per day without providing the  
16 employee with a meal period of not less than 30 minutes" if and when such  
17 employees work more than 5 hours in any given workday. Labor Code Section  
18 512 further requires two 30 -minute duty-free meal periods when an employee  
19 works more than 10 hours in any given workday.  
20

21           66. Labor Code section 226.7 requires payment of one (1) hour of pay in  
22 lieu of each meal periods not provided by the employer.  
23

24           67. Throughout the period applicable to this cause of action, Defendants  
25 failed to consistently allow and provide one or more duty-free 30-minute meal  
26 periods in violation of Labor Code section 510 and Wage Order No. 9, as  
27 required by California law.  
28

1           68. By virtue of this unlawful conduct, Plaintiff and the class members  
2 are entitled to compensation as stated above, plus interest, attorneys' fees, costs  
3 and other applicable relief.  
4

5           69. Throughout the period applicable to this cause of action, Defendants  
6 required Plaintiff and the class members to work during meal periods mandated  
7 by the applicable orders of the Industrial Welfare Commission. Therefore,  
8 Plaintiff and the class members are entitled to be paid as stated in Labor Code  
9 section 226.7, plus interest, attorneys' fees, costs and other applicable relief.  
10  
11

12           70. On information and belief, Plaintiff alleges that the class members  
13 did not voluntarily or willfully waive rest and/or meal periods and were regularly  
14 required to work through meal periods. Defendants failed to meet the  
15 requirements for lawful on-duty meal periods and/or instituted a course of  
16 conduct that created a working environment in which non-exempt employees  
17 were incapable of taking rest and/or meal periods. As such, non-exempt  
18 employees were intimidated or coerced into waiving meal periods, and any  
19 written waivers were obtained without full disclosure and are thus involuntarily  
20 and without consent.  
21  
22  
23

24           71. Plaintiff and the class he seeks to represent request relief as  
25 described herein.  
26  
27  
28

## Failure to Provide Rest Breaks (Labor Code §§ 226.7 and 512)

73. Wage Order No. 9, Section 12, requires each employer to provide each of its employees with at least one rest period of 10-minutes rest time for each 4 hours, or major fraction thereof, that each such employee works during each workday.

75. By their failure to provide rest periods for every four (4) hours or major fraction thereof worked per workday by non-exempt employees, and failing to provide one (1) hour's pay in lieu thereof, as alleged above and herein, Defendants willfully violated the provisions of Labor Code sections 226.7 and IWC Wage Orders at section (12).

76. By failing to keep adequate time records required by sections 226 and 1174(d) of the Labor Code and IWC Wage Order at section (7), Defendants

1 have injured Plaintiff and class members, and made it difficult to calculate the  
2 unpaid rest and meal period compensation due Plaintiff and members of the  
3 Plaintiff class. On information and belief, Plaintiff alleges that Defendants'  
4 failure to maintain accurate records was willful.  
5

6         77. As a result of the unlawful acts of Defendants, Plaintiff and the class  
7 members he seeks to represent have been deprived of premium wages in amounts  
8 to be determined at trial, and are entitled to an accounting and recovery of such  
9 amounts, plus interest and penalties thereon, attorneys' fees, and costs, under the  
10 Labor Code and the applicable IWC Wage Orders.  
11

12                                   **Fifth Cause of Action**  
13

14                                   **Failure to Reimburse**  
15                                   **(Labor Code §§ 2802)**  
16

17         78. Plaintiff incorporates all previous paragraphs of this Complaint as  
18 though fully set forth herein.  
19

20         79. Labor Code section 2802(a) provides: "An employer shall indemnify  
21 his or her employee for all necessary expenditures or losses incurred by the  
22 employee in direct consequence of the discharge of his or her duties, or of his or  
23 her obedience to the directions of the employer."  
24

25         80. Throughout the class period, Plaintiff and all other class members  
26 incurred necessary expenditures in direct consequence of their duties as  
27  
28

1 Defendants' mechanics and/or their obedience to Defendants' directions, for  
2 which they received no reimbursement.  
3

4 81. Plaintiff and numerous other mechanics paid out-of-pocket expenses  
5 for their vehicle's fuel, vehicle maintenance, insurance, parking, bridge tolls, and  
6 other business expenses.  
7

8 82. Labor Code section 2802(b) provides for interest on all awards made  
9 by a court from the date upon which the employee incurred the necessary  
10 expenditure or loss.  
11

12 83. Labor Code section 2802(c) provides that "necessary expenditures or  
13 losses" includes all reasonable costs including attorney's fees incurred by the  
14 employee to enforce the rights afforded under this provision.  
15

16 84. Defendants misclassify mechanics as independent contractors, and  
17 fails to reimburse them for expenses they paid, including, gas, mileage and  
18 vehicle maintenance, that should have been borne by their employer, which  
19 constitutes a violation of California Labor Code Section 2802.  
20

21 85. In failing to reimburse Plaintiff and class members for expenses  
22 paid, Defendants acted maliciously with the wrongful intention of causing injury  
23 and hardship to class members by reaping economic gain at the class members'  
24 expense, in willful and conscious disregard of class members' statutory and  
25 regulatory rights.  
26  
27  
28

1           86. Plaintiff and the class members are entitled to recover an award from  
2 Defendant of the full amount of all unreimbursed necessary expenditures, plus  
3 interest and reasonable attorneys' fees.  
4

5                           **Sixth Cause of Action**

6                           **Failure to Pay All Wages at Termination**  
7                           **(Labor Code §§ 201- 203)**

8           87. Plaintiff incorporates all previous paragraphs of this Complaint as  
9 though fully set forth herein.  
10

11           88. Plaintiff and many of the other class members quit or were  
12 discharged from their employment within the statute of limitations period  
13 applicable to this cause of action.  
14

15           89. Defendants failed to pay said employees, without abatement, all  
16 wages (as defined by applicable California law) within the time required by  
17 applicable California law. Defendants' failure to pay said wages within the  
18 required time was willful within the meaning of Labor Code section 203.  
19  
20

21           90. As of the filing of the Complaint, Defendants failed to timely pay  
22 wages due, and Plaintiff and class members are owed penalties pursuant to Labor  
23 Code sections 201, 202, 203.  
24

25           91. Therefore, each of these employees is entitled to one day's wages for  
26 each day he or she was not timely paid all said wages due, up to a maximum of  
27 thirty days' wages for each employee. Because employees were never paid the  
28



1 wages to which they were entitled, each employee is entitled to thirty days'  
2 wages.  
3

### 4 **Seventh Cause of Action**

#### 5 **Failure to Provide Accurate Wage Statements** 6 **(Labor Code §§ 226(b), 1174, 1175)**

7 92. Plaintiff incorporates all previous paragraphs of this Complaint as  
8 though fully set forth herein.  
9

10 93. Labor Code section 1174(d) requires that every employee maintain  
11 “payroll records showing the hours worked daily by and the wages paid to, and  
12 the number of piece-rate units earned by and any applicable piece rate aid to,  
13 employees employed” in California.  
14

15 94. Wage Order No. 9, Section 7 requires every employer in California  
16 to “keep accurate information with respect to each employee including,” . . .  
17 “[t]ime records showing when the employee begins and ends each work period.  
18 Meal periods, split shift intervals and total daily hours worked shall also be  
19 recorded.”  
20  
21

22 95. Plaintiff is informed and believes and upon that basis alleges, that  
23 Defendant has failed to maintain accurate records in compliance with Labor Code  
24 section 1174 and/or Wage Order No. 9 for Plaintiff and the class. Pursuant to  
25 Labor Code Section 1174.5, Plaintiff and the class are entitled to each collect a  
26 civil penalty from Defendant in the amount of \$500.  
27  
28

1           96. Labor Code section 226 requires each employer to furnish accurate  
2 itemized wage statements at the time of payment reflecting (1) the gross wages  
3 earned, (2) the total hours worked, except for those whose compensation is based  
4 solely on a salary and who is exempt, (3) the number of piece-rate units earned  
5 and any applicable piece-rate if the employee is paid on a piece-rate basis, (4) all  
6 deductions, (5) net wages earned, (6) the dates of the period for which the  
7 employee is paid, (7) the name of the employee and last four digits of the  
8 employee's social security number or identification number, (8) the name and  
9 address of the legal entity that is the employer , and (9) all applicable hourly rates  
10 in effect during the pay period and the corresponding number of hours worked at  
11 each hourly rate by the employee beginning July 1, 2013.

12           97. Throughout the period applicable to this cause of action, Defendants  
13 intentionally failed to furnish to Plaintiff and the class members, upon each  
14 payment of wages, itemized statements accurately showing, among other matters:  
15 total hours worked, the applicable hourly rates in effect during the pay period, and  
16 the corresponding number of hours worked at each hourly rate.

17           98. Plaintiff and the class members were damaged by these failures  
18 because, among other things, the failures led them to believe that they were not  
19 entitled to be paid, even though they were so entitled, and because the failures  
20 hindered them from determining the amounts of wages owed to them.

1           99. Plaintiff and the class members are entitled to the amounts provided  
2 for in Labor Code section 226(e), which provides for each employee to recover  
3 from Defendant fifty dollars (\$50) for the initial pay period in which a violation  
4 occurred, and one-hundred dollars (\$100) per class member for each violation in a  
5 subsequent pay period, not to exceed an aggregate penalty of \$4,000 per class  
6 member.  
7

8  
9           100. Plaintiff and the class members are entitled to an award of attorney  
10 fees plus costs.  
11

12                                   **Eight Cause of Action**

13                                   **Violation of Unfair Competition Law**  
14                                   **(Bus. and Prof. Code § 17200 *et seq.*)**

15           101. Plaintiff incorporates all previous paragraphs of this Complaint as  
16 though fully set forth herein.  
17

18           102. Plaintiff brings this action on behalf of himself and each and all  
19 members of the general public, including the class, pursuant to Business and  
20 Professions Code sections 17200 *et seq.* Defendants' conduct alleged above  
21 constitutes unlawful business acts and practices in violation of Business &  
22 Professions Code sections 17200 *et seq.* Defendants engaged in unfair  
23 competition in violation of the UCL by violating, *inter alia*, each of the following  
24 laws, Labor Code sections 201, 202, 203, 226, 226.7, 226.8, 510, 512, 1174,  
25  
26  
27  
28

1 1175, 1182.12, 1194, 1197, 1197.1, 1198, 1199, and 2802, and applicable Wage  
2 Orders, including Wage Order No. 9.  
3

4 103. Defendants' course of conduct, acts, and practices in violation of the  
5 California laws mentioned in the above paragraph constitute a separate and  
6 independent violation of the UCL. Defendants' conduct described herein violates  
7 the policy or spirit of such laws or otherwise significantly threatens or harms  
8 competition. The harm to Plaintiff and the class members in being wrongfully  
9 denied lawfully earned wages outweighs the utility, if any, of Defendants' policies  
10 or practices and, therefore, Defendants' actions described herein constitute an  
11 unfair business practice or act within the meaning of the UCL.  
12  
13  
14

15 104. The unlawful and unfair business practices and acts of Defendants,  
16 and each of them, described above, have injured the class members in that they  
17 were wrongfully denied the payment of earned wages.  
18

19 105. Plaintiff, on behalf of himself and the class, seeks restitution in the  
20 amount of the respective unpaid wages earned and due at a rate not less than one  
21 and one-half times the regular rate of pay for work performed in excess of forty  
22 hours in a work week, or eight hours in a day, and double the regular rate of pay  
23 for work performed in excess of twelve hours per day and such other legal and  
24 equitable relief from Defendants' unlawful and willful conduct as the Court  
25  
26  
27  
28

1           106. Pursuant to Business and Professions Code sections 17200 *et seq.*,  
2 for the statute of limitations period covered by this cause of action, Plaintiff and  
3 the class members are entitled to restitution for at least the following: the unpaid  
4 withheld and retained by Defendants referred to above.  
5

6           107. Plaintiff, the class members, and the general public are also entitled  
7 to permanent injunctive and declaratory relief prohibiting Defendants from  
8 engaging in the violations and other misconduct referred to above.  
9

10           108. Defendant is also liable to pay attorneys' fees pursuant to California  
11 Code of Civil Procedure section 1021.5 and other applicable law, and costs. The  
12 Plaintiff, on behalf of himself and all class members, also seek recovery of  
13 attorneys' fees and costs of this action to be paid by Defendant, as provided by the  
14 UCL and California Labor Code §§ 218, 218.5, and 1194.  
15  
16

### 17                           **Ninth Cause of Action**

#### 18   **Violation of Labor Code Section 2699** 19   **(California Private Attorney General Act ("PAGA"))** 20

21           109. Plaintiff, on behalf of himself and other aggrieved employees,  
22 incorporates all previous paragraphs of this Complaint as though fully set forth  
23 herein.  
24

25           110. Plaintiff filed a Private Attorney General Act ("PAGA") complaint  
26 online with the California's Labor and Workforce Development Agency (LWDA)  
27  
28

1 on April 27, 2020, and served Defendants by certified mail as prescribed by the  
2 Labor Code.

3  
4 111. California IWC Wage Order 4-2001 requires an employer to pay  
5 each employee, on the established payday for the period involved, not less than  
6 the applicable minimum wage for all hours worked in the payroll period, whether  
7 the remuneration is measured by time, piece, commission, or otherwise.  
8

9 112. Defendants failed to pay Plaintiff and other aggrieve employees at  
10 least minimum wage for all hours worked in violation of Labor Code sections  
11 1194 and 1197.  
12

13 113. During the liability period, Defendants have routinely failed to pay  
14 Plaintiff the minimum wage required under California law. Plaintiff purchased  
15 and used his own hand tools to perform work for Defendants. The hand tools  
16 provided and used were necessary for the performance of his duties as an auto  
17 technician. Because Plaintiff was required to provide and maintain his own hand  
18 tools, that minimum wage was double the standard minimum wage per IWC  
19 Wage Order 4-2001.  
20  
21  
22

23 114. Plaintiff, by virtue of his employment with Defendants is an  
24 aggrieved employee with standing to bring an action under the PAGA. Plaintiff  
25 has satisfied all prerequisites to serve as a representative of the general public to  
26  
27  
28

1 enforce California's labor laws, including, without limitation, the penalty  
2 provisions identified in Labor Code section 2699.5.  
3

4 115. Since the LWDA took no steps within the time period required to  
5 intervene and because Defendant took no corrective action to remedy the  
6 allegations set forth above, Plaintiff as a representatives of the people of the State  
7 of California, seeks any and all penalties otherwise capable of being collected by  
8 the Labor Commission and/or the Department of Labor Standards Enforcement  
9 ("DLSE"). This includes each of the following, as set forth in Labor Code  
10 Section 2699.5, which provides that Section 2699.3(a) applies to any alleged  
11 violation of the following provisions: Sections 558, 1194, 1197, 1197.1, and  
12 1199.  
13  
14  
15

16 116. Labor Code section 2699 provides for civil penalties of \$100 per  
17 employee per pay period for the initial violation and \$200 per employee per pay  
18 period for each subsequent violation.  
19

20 117. Plaintiff, as a representative of the general public, seeks to recover  
21 any and all penalties for each and every violation shown to exist or to have  
22 occurred during the one year period before Plaintiff filed Notice with the LWDA  
23 of his intent to bring this action, in an amount according to proof, as to those  
24 penalties that are otherwise only available to public agency enforcement actions.  
25  
26 Funds recovered will be distributed in accordance with the PAGA, with at least  
27  
28

1 75% of the penalties recovered being reimbursed to the State of California and the  
2 LWDA.

3  
4 118. As a result of the acts alleged above, Plaintiff and the class he seeks  
5 to represent seek penalties under Labor Code §§ 201-203, 212, 226, 226.7, 510,  
6 1182.12, 1194, 1197, and 1197.1.

7  
8 119. Plaintiff, as a representative of the general public, seeks to recover  
9 reasonable attorney's fees and costs under the PAGA, Labor Code section  
10 2699(g)(1).

11  
12 120. WHEREFORE, Plaintiff and the class he seeks to represent request  
13 relief as described herein and below, and as the Court may deem proper.

14  
15 **VII.**

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff on behalf of himself and all members of the class,  
18 pray for relief as follows:

19  
20 1. That the Court determine that this action may be maintained as a  
21 class action;

22  
23 2. That Plaintiff be appointed the representative of the proposed class  
24 and subclasses;

25  
26 3. That the attorneys of record for Plaintiff whose names appear in this  
27 Complaint be appointed class counsel;



1           4.     For civil penalties pursuant to Labor Code Sections 226(e), 226.8(b),  
2 226.8(c), 1174.5, and 1197.1;  
3

4           5.     For compensatory damages representing the amount of unpaid wages  
5 owed to Plaintiff and the class members;  
6

7           6.     For compensatory damages pursuant to Labor Code Section 226.7  
8 for missed meal and rest breaks;  
9

10          7.     For compensatory damages pursuant to Labor Code Section 2802;

11          8.     For reasonable attorneys' fees and costs pursuant to Labor Code  
12 Sections 226(e), 1194, and 2802(c);  
13

14          9.     For such general and special damages as may be appropriate;

15          10.    For liquidated damages as authorized pursuant to Labor Code  
16 Sections 1194.2;  
17

18          11.    For waiting time penalties and civil penalties for all class members  
19 no longer in Defendants' employ at the time of Judgment;  
20

21          12.    For pre-judgment interest;

22          13.    For restitution as described in the cause of action under Business &  
23 Professions Code §§ 17200 *et seq.* above;  
24

25          14.    For permanent injunctive and declaratory relief described in the  
26 cause of action under Business & Professions Code §§ 17200 *et seq.* above;  
27  
28

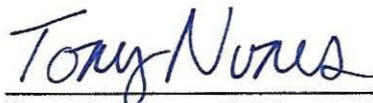
1           15.    A declaratory judgment that the practices complained of herein are  
2 unlawful under California state law;  
3

4           16.    Attorney's fees and costs of suit, including expert fees pursuant to  
5 California Labor Code §§218.5, 1194, and Code Civ. Proc. §1021.5; and  
6

7           17.    Such other injunctive and equitable relief as the Court may deem  
8 proper.  
9

10  
11 **DATED:** July 3, 2020

**NUNES WORKER RIGHTS LAW, APC**

12  
13 

14 By: Anthony J. Nunes, Esq.  
15 Attorneys for Plaintiff, JOSEPH  
16 BRELSFORD, on behalf of himself and all  
17 others similarly situated  
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